

AMENDED IN ASSEMBLY APRIL 6, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2776

**Introduced by Committee on Water, Parks and Wildlife (Huffman
(Chair), Arambula, Blumenfield, Caballero, Bonnie Lowenthal,
Salas, and Yamada)**
(Coauthors: Assembly Members Tom Berryhill, Fletcher, and Fuller)

March 1, 2010

~~An act to amend Sections 10608.20 and 10608.26 of the Water Code, relating to water conservation. An act to amend Section 17516 of the Government Code, and to amend Sections 175, 1055.2, 1228.5, 1228.7, 1241, 1241.6, 1410, 1675, 1701.3, 1825, 13261, 13320, 13376, 13442, 13553, 13627, and 13627.4 of, to amend the headings of Article 1 (commencing with Section 13300) and Article 2 (commencing with Section 13320) of Chapter 5 of Division 7 of, to amend and renumber Section 13274 of, to add Section 13248 to, and to repeal Sections 1062 and 1241.5 of, the Water Code, relating to water.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2776, as amended, Committee on Water, Parks and Wildlife.
~~Water conservation: urban water management. Water.~~

(1) Existing law establishes 9 California regional water quality control boards. Each regional board consists of 9 members who are appointed by the Governor and who serve 4-year terms.

This bill would extend the terms of 2 board members on each regional board, as specified, to September 30, 2014.

(2) Existing law requires that, prior to the indoor use of recycled water in a condominium project, the agency delivering the recycled water to the condominium project file a report with the regional board

and receive written approval of the report from the State Department of Public Health.

This bill instead would require the agency to file the report with the State Department of Public Health.

(3) This bill would update cross-references in, and delete obsolete provisions of, the Water Code, and make various other technical or clarifying changes.

~~Existing law imposes various water use reduction requirements that apply to urban retail water suppliers and agricultural water suppliers. The requirements include a requirement that the state achieve a 20% reduction in urban per capita water use by December 31, 2020. For the purpose of meeting this goal, an urban retail water supplier is required to develop urban water use targets and an interim water use target by July 1, 2011, and to take other related actions. Existing law requires an urban retail water supplier that supplies water to a United States Department of Defense military installation, for the purpose of preparing an implementation plan to comply with these water use reduction provisions, to consider specified requirements.~~

~~Existing law requires an urban water supplier to prepare and adopt, and update every 5 years, an urban water management plan. Existing law grants a specified extension to an urban retail water supplier for the adoption of an urban water management plan that is due in 2010, to allow use of certain technical methodologies that the Department of Water Resources is required to develop for purposes of those water use reduction provisions.~~

~~This bill would grant that extension to an urban wholesale water supplier, as specified. The bill would revise the requirements that apply to an urban retail water supplier that supplies water to that described military installation by requiring the supplier to consider the prior water conservation of that military installation for the purpose of preparing that implementation plan.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17516 of the Government Code is
- 2 amended to read:
- 3 17516. “Executive order” means—~~any~~ an order, plan,
- 4 requirement, rule, or regulation issued by any of the following:

1 (a) The Governor.

2 (b) ~~Any~~ An officer or official serving at the pleasure of the
3 Governor.

4 (c) ~~Any~~ An agency, department, board, or commission of state
5 government.

6 “Executive order” does not include any order, plan, requirement,
7 rule, or regulation issued by the State Water Resources Control
8 Board or by any regional water quality control board pursuant to
9 Division 7 (commencing with Section 13000) of the Water Code.
10 It is the intent of the Legislature that the State Water Resources
11 Control Board and regional water quality control boards will not
12 adopt enforcement orders against publicly owned dischargers
13 which mandate major waste water treatment facility construction
14 costs unless federal financial assistance and state financial
15 assistance pursuant to the Clean Water Bond Act of 1970 and 1974,
16 is simultaneously made available. “Major” means either a new
17 treatment facility or an addition to an existing facility, the cost of
18 which is in excess of 20 percent of the cost of replacing the facility.

19 SEC. 2. Section 175 of the Water Code is amended to read:

20 175. (a) There is in the ~~Resources~~ California Environmental
21 Protection Agency the State Water Resources Control Board
22 consisting of five members appointed by the Governor. One of the
23 members appointed shall be an attorney admitted to practice law
24 in this state who is qualified in the fields of water supply and water
25 rights, one shall be a registered civil engineer under the laws of
26 this state who is qualified in the fields of water supply and water
27 rights, one shall be a registered professional engineer under the
28 laws of this state who is experienced in sanitary engineering and
29 who is qualified in the field of water quality, and one shall be
30 qualified in the field of water quality. One of the above-appointed
31 persons, in addition to having the specified qualifications, shall be
32 qualified in the field of water supply and water quality relating to
33 irrigated agriculture. One member shall not be required to have
34 specialized experience.

35 Each

36 (b) Each member shall represent the state at large and not any
37 particular portion thereof and shall serve full time. The board shall,
38 to the extent possible, be composed of members from different
39 regions of the state. The appointments so made by the Governor
40 shall be subject to confirmation by the Senate in accordance with

1 Article 2 (commencing with Section 1770) of Chapter 4 of Division
2 4 of Title 1 of the Government Code.

3 *SEC. 3. Section 1055.2 of the Water Code is amended to read:*

4 1055.2. ~~No~~A person or entity shall *not* be subject to both civil
5 liability imposed under Section 1055 and civil liability imposed
6 by the superior court under ~~subdivision (d) of Section 1052, Section~~
7 ~~1536, or Section 1845~~ for the same act or failure to act.

8 *SEC. 4. Section 1062 of the Water Code is repealed.*

9 ~~1062. (a) The Legislature finds and declares as follows:~~

10 ~~(1) The watershed of the San Francisco Bay/Sacramento-San~~
11 ~~Joaquin Delta Estuary supplies a large percentage of water used~~
12 ~~in California.~~

13 ~~(2) The State Water Resources Control Board and the California~~
14 ~~regional water quality control boards are responsible for protecting~~
15 ~~all beneficial uses of those waters. Beneficial uses include those~~
16 ~~defined in subdivision (f) of Section 13050.~~

17 ~~(3) The board is engaged in a hearing process to consider~~
18 ~~revisions to the water quality standards contained in the existing~~
19 ~~water quality control plan for the Sacramento-San Joaquin Delta~~
20 ~~and Suisun Marsh and to consider new standards for San Francisco~~
21 ~~Bay.~~

22 ~~(4) There is a broad diversity of viewpoints regarding~~
23 ~~appropriate water quality standards and priorities with respect to~~
24 ~~the various beneficial uses.~~

25 ~~(5) Any new or revised standards and plans that derive from the~~
26 ~~hearing process will have a substantial impact on the people of~~
27 ~~California, and there is significant public interest in these~~
28 ~~deliberations.~~

29 ~~(b) It is the intent of the Legislature that the hearing process~~
30 ~~shall provide for the involvement of all those who wish to~~
31 ~~participate in these deliberations. It is further the intent of the~~
32 ~~Legislature that members of the general public shall have full~~
33 ~~access to the proceedings and to all official records of the hearings.~~

34 ~~(c) The board shall lodge one copy of the transcripts of the~~
35 ~~hearings referred to in subdivision (a) for inspection and use by~~
36 ~~the general public at the following locations: the headquarters of~~
37 ~~the State Water Resources Control Board in Sacramento; the~~
38 ~~headquarters of the regional water quality control boards in Los~~
39 ~~Angeles, Fresno, and San Diego; and the headquarters of the~~
40 ~~Environmental Protection Agency in San Francisco. The transcripts~~

1 shall be updated on a timely basis throughout the course of the
2 board's bay-delta hearing process. At the conclusion of the hearing
3 process, one transcript shall be maintained at the headquarters of
4 the board in Sacramento.

5 (d) The board shall provide for staff services at the headquarters
6 of the board in Sacramento and at the headquarters at each of the
7 regional water quality control boards listed in subdivision (c) to
8 assist the public in utilizing the transcripts and other documents
9 and to facilitate participation by interested parties in the hearing
10 process.

11 (e) During the course of the board's bay-delta hearing process,
12 the board shall provide for public access to an electronic data
13 retrieval system capable of displaying the text of the hearing
14 transcript at the following locations: the headquarters of the board
15 in Sacramento; the headquarters of the regional water quality
16 control boards in Oakland, Los Angeles, Fresno, Redding,
17 Riverside, and San Diego; and the headquarters of the
18 Environmental Protection Agency in San Francisco.

19 *SEC. 5. Section 1228.5 of the Water Code is amended to read:*

20 1228.5. (a) Registration of a small domestic or livestock
21 stockpond use pursuant to this article shall be renewed prior to the
22 expiration of each five-year period following completed
23 registration.

24 (b) Renewal of registration shall be made upon a form prescribed
25 by the board and shall contain ~~such a~~ report of water use made
26 pursuant to the registration as may be required by the board.

27 (c) The conditions established by the board pursuant to Section
28 1228.6 ~~which that~~ are in effect at the time of renewal of registration
29 shall supersede the conditions ~~which that~~ were applicable to the
30 original completed registration.

31 (d) Failure to renew registration in substantial compliance with
32 the reporting requirements prescribed by the board within the time
33 period specified in subdivision (a), or to pay the renewal fee
34 specified in ~~subdivision (b) of Section 1228.8~~ *Section 1525*, shall
35 result by operation of law in the revocation of any right acquired
36 pursuant to this article.

37 *SEC. 6. Section 1228.7 of the Water Code is amended to read:*

38 1228.7. (a) ~~Any~~ A registrant may change the point of diversion
39 or place of use by delivering to the board an amended registration
40 form in accordance with Section 1228.3, including payment of the

1 registration fee specified in ~~subdivision (a) of Section 1228.8~~
2 *Section 1525*, except that the purpose of the use ~~may~~ *shall* not be
3 changed and the change ~~may~~ *shall* not operate to the injury of any
4 legal user of the water involved.

5 (b) ~~Any~~ A completed amended registration of water use
6 continues in effect the priority of right as of the date of the original
7 completed registration.

8 (c) All provisions of this article regarding appropriations made
9 pursuant thereto, including, but not limited to, provisions regarding
10 enforcement, are applicable to the appropriation as described in
11 the completed amended registration, except that the conditions
12 established by the board pursuant to Section 1228.6 ~~which that~~
13 are in effect at the time of completion of the amended registration
14 shall supersede the conditions ~~which that~~ were applicable to the
15 original completed registration.

16 *SEC. 7. Section 1241 of the Water Code is amended to read:*

17 1241. When the person entitled to the use of water fails to use
18 beneficially all or any part of the water claimed by him *or her*, for
19 which a right of use has vested, for the purpose for which it was
20 appropriated or adjudicated, for a period of five years, ~~such that~~
21 unused water may revert to the public and shall, if reverted, be
22 regarded as unappropriated public water. ~~Such That~~ reversion shall
23 occur upon a finding by the board following notice to the permittee,
24 *licensee, or person holding a livestock stockpond certificate or*
25 *small domestic or livestock stockpond use registration under this*
26 *part* and a public hearing if requested by the permittee, *licensee,*
27 *or certificate or registration holder.*

28 *SEC. 8. Section 1241.5 of the Water Code is repealed.*

29 ~~1241.5. The laws of this State with respect to loss of water~~
30 ~~rights by nonuse, abandonment, prescription, and lack of diligence~~
31 ~~shall not apply to water rights appurtenant to or for use on any~~
32 ~~trust land for the period of five years following the conveyance~~
33 ~~by the United States of an unrestricted title to the land and the~~
34 ~~water rights appurtenant to or for use on such land.~~

35 As used in this section, “trust land” means any land in this State
36 (a) to which the United States holds title in trust for any tribe, band,
37 or other group of Indians, or for any particular Indian; or (b) owned
38 by a particular Indian or any tribe, band, or group of Indians subject
39 to a restriction against alienation imposed by the United States; or
40 (c) held by the United States for the use of Indians in California,

1 but not for any particular tribe, band, or group of Indians, or any
2 particular Indian, if any part of such land is occupied by Indians
3 or their families.

4 ~~The Legislature hereby finds and declares that because of~~
5 ~~historical conditions, the Indians of California will not be in a~~
6 ~~position fully to utilize and to protect water rights owned by them~~
7 ~~when unrestricted title to trust land is conveyed to them by the~~
8 ~~United States. A period is required during which the laws with~~
9 ~~respect to loss of water rights by nonuse, abandonment,~~
10 ~~prescription, and lack of diligence are suspended with regard to~~
11 ~~such land and water rights so that they will not lose the benefit of~~
12 ~~the water rights and the opportunity to make productive utilization~~
13 ~~of their land. The Legislature further finds and declares that such~~
14 ~~a suspension of the laws of this State with regard to such water~~
15 ~~rights is in the public interest and will promote the public welfare~~
16 ~~since it will promote the economic and social well-being of the~~
17 ~~Indians and the communities in which they reside and will~~
18 ~~encourage the self-sufficiency of the Indians.~~

19 ~~This section shall become operative upon the enactment of~~
20 ~~federal legislation authorizing the establishment of a California~~
21 ~~Indian Water Affairs Commission.~~

22 *SEC. 9. Section 1241.6 of the Water Code is amended to read:*

23 1241.6. When water appropriated for irrigation purposes is not
24 used by reason of compliance with crop control or soil conservation
25 contracts with the United States, and in other cases of hardship as
26 the board may by rule prescribe, the ~~three-year~~ five-year forfeiture
27 period applicable to water appropriated pursuant to the Water
28 Commission Act or this code, and the forfeiture period applicable
29 to water appropriated prior to December 19, 1914, shall be
30 extended by an additional period of not more than 10 years or the
31 duration of any crop control or soil conservation contracts with
32 the United States if less than 10 years.

33 *SEC. 10. Section 1410 of the Water Code is amended to read:*

34 1410. (a) There shall be cause for revocation of a permit if the
35 work is not commenced, prosecuted with due diligence, and
36 completed or the water applied to beneficial use as contemplated
37 in the permit and in accordance with this division and the rules
38 and regulations of the board.

39 (b) A permit may be revoked *upon request of the permittee or*
40 *under either of the following procedures:*

(1) If, after a hearing on a petition for extension of time to complete a project and apply water to beneficial use, the board finds that cause exists to revoke the permit, the board may revoke the permit.

(2) If, after an investigation other than a hearing on a petition for extension of time, it appears that cause exists to revoke a permit, the board shall give notice of proposed revocation in writing, mailed in a sealed, prepaid postage and certified letter to the permittee at his or her last known address. If the permittee fails to request a hearing with the time provided under Section 1410.1, the board shall revoke the permit and declare the water subject to appropriation. After a hearing, when a hearing is requested by the permittee pursuant to Section 1410.1, the board may, upon a finding that cause exists, revoke the permit and declare the water subject to appropriation.

SEC. 11. Section 1675 of the Water Code is amended to read:

1675. (a) If, at any time after a license is issued, the board finds that the licensee has not put the water granted under the license to a useful or beneficial purpose in conformity with this division or that the licensee has ceased to put the water to ~~such~~ *that* useful or beneficial purpose, or that the licensee has failed to observe any of the terms and conditions in the license, the board, ~~after due notice to the licensee and after a hearing, when a hearing is requested by the licensee pursuant to Section 1675.1,~~ may revoke the license and declare the water to be subject to appropriation in accordance with this part. ~~As~~

(b) *The board may revoke the license upon request of the licensee or after due notice to the licensee and after a hearing, when a hearing is requested by the licensee pursuant to Section 1675.1.*

(c) As used in this section “licensee” includes the heirs, successors, or assigns of the licensee.

SEC. 12. Section 1701.3 of the Water Code is amended to read:

1701.3. (a) After a petition is filed, the board may request additional information reasonably necessary to clarify, amplify, correct, or otherwise supplement the information required to be submitted under this ~~article~~ *chapter*. The board shall provide a reasonable period for submitting the information.

(b) The additional information may include, but need not be limited to, any of the following:

1 (1) Information needed to demonstrate that the change will not
2 injure any other legal user of water.

3 (2) Information needed to demonstrate that the change will
4 comply with any applicable requirements of the Fish and Game
5 Code or the federal Endangered Species Act of 1973 (16 U.S.C.
6 Sec. 1531 et seq.).

7 (3) Information needed to comply with Division 13
8 (commencing with Section 21000) of the Public Resources Code.

9 *SEC. 13. Section 1825 of the Water Code is amended to read:*

10 1825. It is the intent of the Legislature that the state should
11 take vigorous action to enforce the terms and conditions of permits,
12 licenses, certifications, and registrations to appropriate water, to
13 enforce state board orders and decisions, and to prevent the
14 unlawful diversion of water.

15 *SEC. 14. Section 13248 is added to the Water Code, to read:*

16 13248. (a) At any time, the state board may, on its own motion,
17 review the regional board's action or failure to act under this
18 article.

19 (b) The state board may find that the action of the regional
20 board, or the failure of the regional board to act, was appropriate
21 and proper. Upon finding that the action of the regional board,
22 or the failure of the regional board to act, was inappropriate or
23 improper, the state board may direct that appropriate action be
24 taken by the regional board, refer the matter to another state
25 agency having jurisdiction, take appropriate action itself, or take
26 any combination of those actions. In taking any action, the state
27 board is vested with all the powers of the regional boards under
28 this division.

29 *SEC. 15. Section 13261 of the Water Code is amended to read:*

30 13261. (a) ~~Any person failing~~ A person who fails to furnish a
31 report or pay a fee under Section 13260 when so requested by a
32 regional board is guilty of a misdemeanor and may be liable civilly
33 in accordance with subdivision (b).

34 (b) (1) Civil liability may be administratively imposed by a
35 regional board or the state board in accordance with Article 2.5
36 (commencing with Section 13323) of Chapter 5 for a violation of
37 subdivision (a) in an amount ~~that may not exceed~~ not exceeding
38 one thousand dollars (\$1,000) for each day in which the violation
39 occurs. ~~For purposes of this section only, the state board shall have~~
40 ~~the same authority and shall follow the same procedures as set~~

1 forth in Article 2.5 (commencing with Section 13323) of Chapter
2 5, except that the executive director shall issue the complaint with
3 review by the state board. Civil liability may *shall* not be imposed
4 by the regional board pursuant to this section if the state board has
5 imposed liability against the same person for the same violation.

6 (2) Civil liability may be imposed by the superior court in
7 accordance with Article 5 (commencing with Section 13350) and
8 Article 6 (commencing with Section 13360) of Chapter 5 for a
9 violation of subdivision (a) in an amount ~~that may not exceed~~ *not*
10 *exceeding* five thousand dollars (\$5,000) for each day the violation
11 occurs.

12 (c) ~~Any person discharging or proposing~~ *A person who*
13 *discharges or proposes* to discharge hazardous waste, as defined
14 in Section 25117 of the Health and Safety Code, who knowingly
15 furnishes a false report under Section 13260, or who either willfully
16 fails to furnish a report or willfully withholds material information
17 under Section 13260 despite actual knowledge of that requirement,
18 may be liable in accordance with subdivision (d) and is guilty of
19 a misdemeanor.

20 This subdivision does not apply to any waste discharge that is
21 subject to Chapter 5.5 (commencing with Section 13370).

22 (d) (1) Civil liability may be administratively imposed by a
23 regional board in accordance with Article 2.5 (commencing with
24 Section 13323) of Chapter 5 for a violation of subdivision (c) in
25 an amount ~~that may not exceed~~ *not exceeding* five thousand dollars
26 (\$5,000) for each day the violation occurs.

27 (2) Civil liability may be imposed by the superior court in
28 accordance with Article 5 (commencing with Section 13350) and
29 Article 6 (commencing with Section 13360) of Chapter 5 for a
30 violation of subdivision (c) in an amount ~~that may not exceed~~ *not*
31 *exceeding* twenty-five thousand dollars (\$25,000).

32 *SEC. 16. Section 13274 of the Water Code, as added by Section*
33 *13 of Chapter 814 of the Statutes of 1997, is amended and*
34 *renumbered to read:*

35 ~~13274.~~

36 *13275.* (a) Notwithstanding any other ~~provision of law, any a~~
37 public water system regulated by the State Department of Health
38 ~~Services~~ *Public Health* shall have the same legal rights and
39 remedies against a responsible party, when the water supply used

1 by that public water system is contaminated, as those of a private
2 land owner whose groundwater has been contaminated.

3 (b) For purposes of this section, “responsible party” has the
4 same meaning as defined in Section 25323.5 of the Health and
5 Safety Code.

6 *SEC. 17. The heading of Article 1 (commencing with Section*
7 *13300) of Chapter 5 of Division 7 of the Water Code is amended*
8 *to read:*

9
10 Article 1. Administrative Enforcement and Remedies ~~by~~
11 **Regional Boards**
12

13 *SEC. 18. The heading of Article 2 (commencing with Section*
14 *13320) of Chapter 5 of Division 7 of the Water Code is amended*
15 *to read:*

16
17 Article 2. Administrative ~~Enforcement and Remedies~~ Review
18 by the State Board
19

20 *SEC. 19. Section 13320 of the Water Code is amended to read:*

21 13320. (a) Within 30 days of any action or failure to act by a
22 regional board under subdivision (c) of Section 13225, Article 4
23 (commencing with Section 13260) of Chapter 4, Chapter 5
24 (commencing with Section 13300), Chapter 5.5 (commencing with
25 Section 13370), Chapter 5.9 (commencing with Section 13399.25),
26 or Chapter 7 (commencing with Section 13500), ~~any~~ *an* aggrieved
27 person may petition the state board to review that action or failure
28 to act. In case of a failure to act, the 30-day period shall commence
29 upon the refusal of the regional board to act, or 60 days after
30 request has been made to the regional board to act. The state board
31 may, on its own motion, at any time, review the regional board’s
32 action or failure to act ~~and also any failure to act under Article 3~~
33 ~~(commencing with Section 13240) of Chapter 4.~~

34 (b) The evidence before the state board shall consist of the
35 record before the regional board, and any other relevant evidence
36 which, in the judgment of the state board, should be considered to
37 effectuate and implement the policies of this division.

38 (c) The state board may find that the action of the regional board,
39 or the failure of the regional board to act, was appropriate and
40 proper. Upon finding that the action of the regional board, or the

1 failure of the regional board to act, was inappropriate or improper,
2 the state board may direct that the appropriate action be taken by
3 the regional board, refer the matter to ~~any other~~ *another* state
4 agency having jurisdiction, take the appropriate action itself, or
5 take any combination of those actions. In taking any ~~such~~ action,
6 the state board is vested with all the powers of the regional boards
7 under this division.

8 (d) If a waste discharge in one region affects the waters in
9 another region and there is any disagreement between the regional
10 boards involved as to the requirements ~~which~~ *that* should be
11 established, either regional board may submit the disagreement to
12 the state board ~~which~~ *that* shall determine the applicable
13 requirements.

14 (e) If a petition for state board review of a regional board action
15 on waste discharge requirements includes a request for a stay of
16 the waste discharge requirements, the state board shall act on the
17 requested stay portion of the petition within 60 days of accepting
18 the petition. The board may order any stay to be in effect from the
19 effective date of the waste discharge requirements.

20 *SEC. 20. Section 13376 of the Water Code is amended to read:*

21 13376. ~~Any person discharging~~ *A person who discharges*
22 pollutants or ~~proposing~~ *proposes* to discharge pollutants to the
23 navigable waters of the United States within the jurisdiction of
24 this state or ~~any person discharging~~ *a person who discharges*
25 dredged or fill material or ~~proposing~~ *proposes* to discharge dredged
26 or fill material into the navigable waters of the United States within
27 the jurisdiction of this state shall file a report of the discharge in
28 compliance with the procedures set forth in Section 13260, ~~except~~
29 ~~that no report need~~. *Unless required by the state board or a*
30 *regional board, a report need not* be filed under this section for
31 discharges that are not subject to the permit application
32 requirements of the Federal Water Pollution Control Act, as
33 amended. ~~Any person proposing~~ *A person who proposes* to
34 discharge pollutants or dredged or fill material or ~~proposing~~ to
35 operate a publicly owned treatment works or other treatment works
36 treating domestic sewage shall file a report at least 180 days in
37 advance of the date on which it is desired to commence the
38 discharge of pollutants or dredged or fill material or the operation
39 of the treatment works. ~~Any~~ *A person who owns or operates a*
40 *publicly owned treatment works or other treatment works treating*

domestic sewage, which treatment works commenced operation before January 1, 1988, and does not discharge to navigable waters of the United States, shall file a report within 45 days of a written request by a regional board or the state board, or within 45 days after the state has an approved permit program for the use and disposal of sewage sludge, whichever occurs earlier. The discharge of pollutants or dredged or fill material or the operation of a publicly owned treatment works or other treatment works treating domestic sewage by any person except as authorized by waste discharge requirements or dredged or fill material permits is prohibited, except that no waste discharge requirements or permit is required under this chapter if no. *This prohibition does not apply to discharges or operations for which a state or federal permit is not required under the Federal Water Pollution Control Act, as amended.*

SEC. 21. Section 13442 of the Water Code is amended to read:

13442. Upon application by a public agency with authority to clean up a waste or abate the effects thereof, the state board may order moneys to be paid from the account to the agency to assist it in cleaning up the waste or abating its effects on waters of the state. The agency shall not become liable to the state board for repayment of ~~such~~ those moneys, but this shall not be ~~any~~ a defense to an action brought pursuant to subdivision ~~(b)~~ (c) of Section 13304 for the recovery of moneys paid ~~hereunder~~ under this section.

SEC. 22. Section 13553 of the Water Code is amended to read:

13553. (a) The Legislature hereby finds and declares that the use of potable domestic water for toilet and urinal flushing in structures is a waste or an unreasonable use of water within the meaning of Section 2 of Article X of the California Constitution if recycled water, for these uses, is available to the user and meets the requirements set forth in Section 13550, as determined by the state board after notice and a hearing.

(b) The state board may require a public agency or person subject to this section to furnish any information that may be relevant to making the determination required in subdivision (a).

(c) For ~~the~~ purposes of this section and Section 13554, “structure” or “structures” means commercial, retail, and office buildings, theaters, auditoriums, condominium projects, schools, hotels, apartments, barracks, dormitories, jails, prisons, and

1 reformatories, and other structures as determined by the State
2 Department of Public Health.

3 (d) Recycled water may be used in condominium projects, as
4 defined in Section 1351 of the Civil Code, subject to all of the
5 following conditions:

6 (1) Prior to the indoor use of recycled water in any condominium
7 project, the agency delivering the recycled water to the
8 condominium project shall file a report with ~~the appropriate~~
9 ~~regional water quality control board~~, and receive written approval
10 of the report from, the State Department of Public Health. The
11 report shall be consistent with the provisions of Title 22 of the
12 California Code of Regulations generally applicable to
13 dual-plumbed structures and shall include all the following:

14 (A) That potable water service to each condominium project
15 will be provided with a backflow protection device approved by
16 the State Department of Public Health to protect the agency's
17 public water system, as defined in Section 116275 of the Health
18 and Safety Code. The backflow protection device approved by the
19 State Department of Public Health shall be inspected and tested
20 annually by a person certified in the inspection of backflow
21 prevention devices.

22 (B) That any plumbing modifications in the condominium unit
23 or any physical alteration of the structure will be done in
24 compliance with state and local plumbing codes.

25 (C) That each condominium project will be tested by the
26 recycled water agency or the responsible local agency at least once
27 every four years to ensure that there are no indications of a possible
28 cross connection between the condominium's potable and
29 nonpotable systems.

30 (D) That recycled water lines will be color coded consistent
31 with current statutes and regulations.

32 (2) The recycled water agency or the responsible local agency
33 shall maintain records of all tests and annual inspections conducted.

34 (3) The condominium's declaration, as defined in Section 1351
35 of the Civil Code, shall provide that the laws and regulations
36 governing recycled water apply, shall permit no exceptions to those
37 laws and regulations, shall incorporate the report described in
38 paragraph (1), and shall contain the following statement:

39
40 "NOTICE OF USE OF RECYCLED WATER

1
2 This property is approved by the State Department of Public
3 Health for the use of recycled water for toilet and urinal
4 flushing. This water is not potable, is not suitable for indoor
5 purposes other than toilet and urinal flushing purposes, and
6 requires dual plumbing. Alterations and modifications to the
7 plumbing system require a permit and are prohibited without
8 first consulting with the appropriate local building code
9 enforcement agency and your property management company
10 or homeowners' association to ensure that the recycled water
11 is not mixed with the drinking water."
12

13 (e) The State Department of Public Health may adopt regulations
14 as necessary to assist in the implementation of this section.

15 (f) This section shall only apply to condominium projects that
16 are created, within the meaning of Section 1352 of the Civil Code,
17 on or after January 1, 2008.

18 (g) Nothing in this section or Section 13554 applies to a pilot
19 program adopted pursuant to Section 13553.1.

20 *SEC. 23. Section 13627 of the Water Code is amended to read:*

21 13627. (a) Supervisors and operators of those wastewater
22 treatment plants described in paragraph (1)—~~and or~~ (2) of
23 subdivision (b) of Section 13625 shall possess a certificate of
24 appropriate grade. Subject to the approval of regulations by the
25 state board, supervisors and operators of those wastewater treatment
26 plants described in paragraph (3) of subdivision (b) of Section
27 13625 shall possess certificates of the appropriate grade. All
28 certificates shall be issued in accordance with, and to the extent
29 recommended by the advisory committee and required by,
30 regulations adopted by the state board. The state board shall
31 develop and specify in its regulations the training necessary to
32 qualify a supervisor or operator for certification for each type and
33 class of plant. The state board may accept experience in lieu of
34 qualification training. For supervisors and operators of water
35 recycling treatment plants, the state board may approve use of a
36 water treatment plant operator of appropriate grade certified by
37 the State Department of ~~Health Services~~ *Public Health* pursuant
38 to Article 3 (commencing with Section 106875) of Chapter 4 of
39 Part 1 of Division 104 of the Health and Safety Code in lieu of a
40 wastewater treatment plant operator certified by the state board,

1 provided that the state board may refuse to approve use of an
2 operator certified by the department or may suspend or revoke its
3 approval of the use of an operator certified by the department if
4 the operator commits any of the prohibited acts described in Article
5 7 (*commencing with Section 3710*) of Chapter 26 of Division 3 of
6 Title 23 of the California Code of Regulations.

7 (b) The regional water quality control board, with jurisdiction
8 for issuing and ensuring compliance with applicable water
9 reclamation or waste discharge requirements, shall notify the
10 department in writing if, pursuant to an inspection conducted under
11 Section 13267, the regional board makes a determination that there
12 ~~is~~ *are* reasonable grounds for not issuing, or for suspending or
13 revoking, the certificate of a certified water treatment plant operator
14 who is operating or supervising the operation of a water recycling
15 treatment plant. The department shall make its determination
16 regarding the issuance, suspension, or revocation of a certificate
17 in accordance with Section 106876 of the Health and Safety Code.

18 (c) For purposes of this section, “water recycling treatment
19 plant” means a treatment plant that receives and further treats
20 secondary or tertiary effluent, or both, from a wastewater treatment
21 plant.

22 (d) A person employed as a wastewater treatment plant
23 supervisor or operator on the effective date of regulations adopted
24 pursuant to this chapter shall be issued an appropriate certificate
25 if the person meets the training, education, and experience
26 requirements prescribed by regulations.

27 (e) The state board may refuse to grant, suspend, or revoke any
28 certificate issued by the state board to operate a wastewater
29 treatment plant, or may place on probation, or reprimand, the
30 certificate holder upon any reasonable ground, including, but not
31 limited to, all of the following reasons:

32 (1) Submitting false or misleading information on an application
33 for a certificate.

34 (2) The employment of fraud or deception in the course of
35 operating the wastewater treatment plant.

36 (3) A certificate holder’s failure to use reasonable care or
37 judgment in the operation of the plant.

38 (4) A certificate holder’s inability to perform operating duties
39 properly.

(5) Willfully or negligently violating, or causing, or allowing the violation of, waste discharge requirements or permits issued pursuant to the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.).

(f) The state board shall conduct all proceedings for the refusal to grant a certificate, and suspension or revocation of a certificate, pursuant to subdivision (e) (e), in accordance with the rules adopted pursuant to Section 185.

SEC. 24. Section 13627.4 of the Water Code is amended to read:

13627.4. (a) The state board may administratively impose the civil liability described in Section 13627.1, 13627.2, or 13627.3 ~~may be administratively imposed~~ in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5, ~~except that the executive director shall issue the complaint with review by the state board.~~

(b) A remedy under this chapter is in addition to, and does not supersede or limit, any other remedy, civil or criminal, except that ~~no~~ liability is *not* recoverable against an operator under subdivision (c) of Section 13627.1 for a violation for which liability is recovered against the operator under Section 13350 or 13385.

SEC. 25. Pursuant to Section 13201 of the Water Code, the Governor appoints, and the Legislature confirms, members to the California regional water quality control boards. These members serve staggered four-year terms in conformance with Section 13202 of the Water Code and the legislation establishing the various positions on the California regional water quality control boards. As a result of the enactment of Chapter 1299 of the Statutes of 1959, two of the positions on each California regional water quality control board have an expiration date of September 17, 2014. The other positions on each California regional water quality control board have a September 30 expiration date in the various years in which they expire. For consistency and efficiency, the Legislature hereby extends to September 30, 2014, the terms of the two positions on each California regional water quality control board that would otherwise expire on September 17, 2014.

~~SECTION 1. Section 10608.20 of the Water Code is amended to read:~~

~~10608.20. (a) (1) Each urban retail water supplier shall develop urban water use targets and an interim urban water use~~

1 target by July 1, 2011. Urban retail water suppliers may elect to
2 determine and report progress toward achieving these targets on
3 an individual or regional basis, as provided in subdivision (a) of
4 Section 10608.28, and may determine the targets on a fiscal year
5 or calendar year basis.

6 (2) ~~It is the intent of the Legislature that the urban water use~~
7 ~~targets described in paragraph (1) cumulatively result in a~~
8 ~~20-percent reduction from the baseline daily per capita water use~~
9 ~~by December 31, 2020.~~

10 (b) ~~An urban retail water supplier shall adopt one of the~~
11 ~~following methods for determining its urban water use target~~
12 ~~pursuant to subdivision (a):~~

13 (1) ~~Eighty percent of the urban retail water supplier's baseline~~
14 ~~per capita daily water use.~~

15 (2) ~~The per capita daily water use that is estimated using the~~
16 ~~sum of the following performance standards:~~

17 (A) ~~For indoor residential water use, 55 gallons per capita daily~~
18 ~~water use as a provisional standard. Upon completion of the~~
19 ~~department's 2016 report to the Legislature pursuant to Section~~
20 ~~10608.42, this standard may be adjusted by the Legislature by~~
21 ~~statute.~~

22 (B) ~~For landscape irrigated through dedicated or residential~~
23 ~~meters or connections, water efficiency equivalent to the standards~~
24 ~~of the Model Water Efficient Landscape Ordinance set forth in~~
25 ~~Chapter 2.7 (commencing with Section 490) of Division 2 of Title~~
26 ~~23 of the California Code of Regulations, as in effect the later of~~
27 ~~the year of the landscape's installation or 1992. An urban retail~~
28 ~~water supplier using the approach specified in this subparagraph~~
29 ~~shall use satellite imagery, site visits, or other best available~~
30 ~~technology to develop an accurate estimate of landscaped areas.~~

31 (C) ~~For commercial, industrial, and institutional uses, a~~
32 ~~10-percent reduction in water use from the baseline commercial,~~
33 ~~industrial, and institutional water use by 2020.~~

34 (3) ~~Ninety-five percent of the applicable state hydrologic region~~
35 ~~target, as set forth in the state's draft 20x2020 Water Conservation~~
36 ~~Plan (dated April 30, 2009). If the service area of an urban water~~
37 ~~supplier includes more than one hydrologic region, the supplier~~
38 ~~shall apportion its service area to each region based on population~~
39 ~~or area.~~

1 ~~(4) A method that shall be identified and developed by the~~
2 ~~department, through a public process, and reported to the~~
3 ~~Legislature no later than December 31, 2010. The method~~
4 ~~developed by the department shall identify per capita targets that~~
5 ~~cumulatively result in a statewide 20-percent reduction in urban~~
6 ~~daily per capita water use by December 31, 2020. In developing~~
7 ~~urban daily per capita water use targets, the department shall do~~
8 ~~all of the following:~~

9 ~~(A) Consider climatic differences within the state.~~

10 ~~(B) Consider population density differences within the state.~~

11 ~~(C) Provide flexibility to communities and regions in meeting~~
12 ~~the targets.~~

13 ~~(D) Consider different levels of per capita water use according~~
14 ~~to plant water needs in different regions.~~

15 ~~(E) Consider different levels of commercial, industrial, and~~
16 ~~institutional water use in different regions of the state.~~

17 ~~(F) Avoid placing an undue hardship on communities that have~~
18 ~~implemented conservation measures or taken actions to keep per~~
19 ~~capita water use low.~~

20 ~~(c) If the department adopts a regulation pursuant to paragraph~~
21 ~~(4) of subdivision (b) that results in a requirement that an urban~~
22 ~~retail water supplier achieve a reduction in daily per capita water~~
23 ~~use that is greater than 20 percent by December 31, 2020, an urban~~
24 ~~retail water supplier that adopted the method described in paragraph~~
25 ~~(4) of subdivision (b) may limit its urban water use target to a~~
26 ~~reduction of not more than 20 percent by December 31, 2020, by~~
27 ~~adopting the method described in paragraph (1) of subdivision (b).~~

28 ~~(d) The department shall update the method described in~~
29 ~~paragraph (4) of subdivision (b) and report to the Legislature by~~
30 ~~December 31, 2014. An urban retail water supplier that adopted~~
31 ~~the method described in paragraph (4) of subdivision (b) may adopt~~
32 ~~a new urban daily per capita water use target pursuant to this~~
33 ~~updated method.~~

34 ~~(e) An urban retail water supplier shall include in its urban water~~
35 ~~management plan required pursuant to Part 2.6 (commencing with~~
36 ~~Section 10610) due in 2010 the baseline daily per capita water use,~~
37 ~~urban water use target, interim urban water use target, and~~
38 ~~compliance daily per capita water use, along with the bases for~~
39 ~~determining those estimates, including references to supporting~~
40 ~~data.~~

1 ~~(f) When calculating per capita values for the purposes of this~~
2 ~~chapter, an urban retail water supplier shall determine population~~
3 ~~using federal, state, and local population reports and projections.~~

4 ~~(g) An urban retail water supplier may update its 2020 urban~~
5 ~~water use target in its 2015 urban water management plan required~~
6 ~~pursuant to Part 2.6 (commencing with Section 10610).~~

7 ~~(h) (1) The department, through a public process and in~~
8 ~~consultation with the California Urban Water Conservation~~
9 ~~Council, shall develop technical methodologies and criteria for~~
10 ~~the consistent implementation of this part, including, but not limited~~
11 ~~to, both of the following:~~

12 ~~(A) Methodologies for calculating base daily per capita water~~
13 ~~use, baseline commercial, industrial, and institutional water use,~~
14 ~~compliance daily per capita water use, gross water use, service~~
15 ~~area population, indoor residential water use, and landscaped area~~
16 ~~water use.~~

17 ~~(B) Criteria for adjustments pursuant to subdivisions (d) and~~
18 ~~(e) of Section 10608.24.~~

19 ~~(2) The department shall post the methodologies and criteria~~
20 ~~developed pursuant to this subdivision on its Internet Web site,~~
21 ~~and make written copies available, by October 1, 2010. An urban~~
22 ~~retail water supplier shall use the methods developed by the~~
23 ~~department in compliance with this part.~~

24 ~~(i) (1) The department shall adopt regulations for~~
25 ~~implementation of the provisions relating to process water in~~
26 ~~accordance with subdivision (l) of Section 10608.12, subdivision~~
27 ~~(e) of Section 10608.24, and subdivision (d) of Section 10608.26.~~

28 ~~(2) The initial adoption of a regulation authorized by this~~
29 ~~subdivision is deemed to address an emergency, for purposes of~~
30 ~~Sections 11346.1 and 11349.6 of the Government Code, and the~~
31 ~~department is hereby exempted for that purpose from the~~
32 ~~requirements of subdivision (b) of Section 11346.1 of the~~
33 ~~Government Code. After the initial adoption of an emergency~~
34 ~~regulation pursuant to this subdivision, the department shall not~~
35 ~~request approval from the Office of Administrative Law to readopt~~
36 ~~the regulation as an emergency regulation pursuant to Section~~
37 ~~11346.1 of the Government Code.~~

38 ~~(j) (1) An urban retail water supplier is granted an extension~~
39 ~~to July 1, 2011, for adoption of an urban water management plan~~
40 ~~pursuant to Part 2.6 (commencing with Section 10610) due in 2010~~

1 to allow the use of technical methodologies developed by the
2 department pursuant to paragraph (4) of subdivision (b) and
3 subdivision (h). An urban retail water supplier that adopts an urban
4 water management plan due in 2010 that does not use the
5 methodologies developed by the department pursuant to
6 subdivision (h) shall amend the plan by July 1, 2011, to comply
7 with this part.

8 (2) An urban wholesale water supplier whose urban water
9 management plan prepared pursuant to Part 2.6 (commencing with
10 Section 10610) was due and not submitted in 2010 is granted an
11 extension to July 1, 2011, to allow the use of technical
12 methodologies referenced in paragraph (1).

13 SEC. 2. Section 10608.26 of the Water Code is amended to
14 read:

15 10608.26. (a) In complying with this part, an urban retail water
16 supplier shall conduct at least one public hearing to accomplish
17 all of the following:

18 (1) Allow community input regarding the urban retail water
19 supplier's implementation plan for complying with this part.

20 (2) Consider the economic impacts of the urban retail water
21 supplier's implementation plan for complying with this part.

22 (3) Adopt a method, pursuant to subdivision (b) of Section
23 10608.20, for determining its urban water use target.

24 (b) In complying with this part, an urban retail water supplier
25 may meet its urban water use target through efficiency
26 improvements in any combination among its customer sectors. An
27 urban retail water supplier shall avoid placing a disproportionate
28 burden on any customer sector.

29 (c) For an urban retail water supplier that supplies water to a
30 United States Department of Defense military installation, the
31 urban retail water supplier's implementation plan for complying
32 with this part shall consider the prior water conservation of that
33 military installation under federal Executive Order 13514 and any
34 subsequent presidential executive order governing water
35 conservation by federal agencies.

36 (d) (1) Any ordinance or resolution adopted by an urban retail
37 water supplier after the effective date of this section shall not
38 require existing customers as of the effective date of this section,
39 to undertake changes in product formulation, operations, or
40 equipment that would reduce process water use, but may provide

1 technical assistance and financial incentives to those customers to
2 implement efficiency measures for process water. This section
3 shall not limit an ordinance or resolution adopted pursuant to a
4 declaration of drought emergency by an urban retail water supplier.
5 (2) This part shall not be construed or enforced so as to interfere
6 with the requirements of Chapter 4 (commencing with Section
7 113980) to Chapter 13 (commencing with Section 114380);
8 inclusive, of Part 7 of Division 104 of the Health and Safety Code;
9 or any requirement or standard for the protection of public health,
10 public safety, or worker safety established by federal, state, or
11 local government or recommended by recognized standard setting
12 organizations or trade associations.